



Proposed Regulation Agency Background Document

Agency name	Board for Asbestos, Lead and Home Inspectors
Virginia Administrative Code (VAC) citation	18 VAC 15-30
Regulation title	Lead-Based Paint Activities Regulations
Action title	Amend
Document preparation date	March 15, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Language has been added to Subsection A of 18 VAC 15-30-810 and Subsection A of 18 VAC 15-30-820 to empower the Board to deny license and approval as well as to take disciplinary action against those “acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee’s business.”

Subsection K of 18 VAC 15-30-420 has been revised to require training providers to submit all notices and training program participant lists electronically on forms provided by the board in an effort to speed up the training verification process for applicants.

Subpart 4 of subsection J of 18 VAC 15-30-420 has been amended to delete “date of birth” as a data element required to be submitted to the Board on each lead-based paint training program participant list and to replace it with “social security number.” The social security number is a currently-required data element for training program participant lists under the Asbestos Licensing Regulations, is required for all regulants under § 54.1-116 of the Code of Virginia and has been found to be a very reliable and effective means of rapidly processing data and issuing licenses. Many entities providing lead-based paint training also provide asbestos training.

The regulations have been reorganized to present the regulatory requirements in a format which is easier to understand. There are no substantive changes as a result of this reorganization. All DPOR boards are

going through similar regulation reorganizations. This reorganization is an effort by the agency to make the regulations more consistent with other DPOR board regulations, benefiting from the experiences of all of regulatory boards.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Board for Asbestos, Lead and Home Inspectors is empowered to promulgate regulations under the legal authority found in Section 54.1-201 of the Code of Virginia, which empowers regulatory boards generally, and Section 54.1-501 of the Code of Virginia, which empowers the Board for Asbestos, Lead, and Home Inspectors specifically.

Section 54.1-501 uses the imperative form of the verb “shall,” thus making it mandatory that the Board promulgate regulations to administer and enforce the provisions of Chapter 5 of Title 54.1 of the Code of Virginia.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The proposed amendments empower the Board to deny license and approval as well as to take disciplinary action against those acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensed or approved entity. The Board will be able to deny application to or take disciplinary action against individuals that have been disciplined and have found others to become licensed on their behalf.

Requiring training providers to submit notices and training program participant lists electronically will speed up the processing of license applications and enable licenses to be issued and renewed faster. Language is provided to allow manual reporting by those that do not have the hardware and software to submit electronically.

The proposed amendments requiring social security numbers instead of the date of birth on training program participant lists implements § 54.1-116 of the Code of Virginia, provides a means of quickly matching data to the appropriate record and conforms the regulatory requirements of this set of regulations with the Board's Asbestos Licensing Regulations. Many entities authorized to provide lead-based paint activities training are also authorized to provide asbestos training. Conforming the reporting requirements will ease the burden on those Board-authorized entities that offer both types of training by enabling them to report the same data for both.

The intent of reorganizing the regulations is to present the regulatory requirements in a format which is easier to understand and to make them more consistent with other DPOR board regulations. This will further the efficient and economical performance of important government functions.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The Board has, from time to time, taken disciplinary action against certain firms and individuals or denied licensure or approval to those firms and individuals under its regulatory authority and its affirmative obligation to protect the public. The Board is concerned that those so disciplined or denied may find others who have not been so disciplined or denied to apply for and become licensed or approved. Those disciplined or denied will then operate as the ostensible licensee, approved entity or individual, thus rendering the Board’s regulatory authority ineffective. The Board’s proposed amendments empower the Board to deny the application of or take disciplinary action against anyone found to be an ostensible owner acting on the behalf of a disqualified individual.

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

No disadvantages to the public or the Commonwealth have been identified.

The public is protected by empowering the Board to take disciplinary action against those acting as or being an ostensible licensee for undisclosed persons who do or will control or direct the operations of the licensed or approved entity.

The agency will benefit by requiring all training program notifications and rosters to be submitted in a uniform manner that will lead to streamlining the processing of applications and will ultimately get licenses to applicants sooner.

The agency’s Compliance and Investigations Division will benefit from reorganizing the regulations by making the regulations more consistent with other DPOR board regulations. The public, government officials and the industry will benefit by reorganizing the regulations in a format which is easier to understand.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a</p>	<p>(a) Fund source – NGF Fund detail – 0900</p>
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delineation of one-time versus on-going expenditures	(b) No one-time or ongoing costs are associated with the proposed regulation amendments.
Projected cost of the regulation on localities	None anticipated.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Asbestos training providers will be impacted by requiring all training program notifications and rosters to conform to one manner of submission.
Agency’s best estimate of the number of such entities that will be affected	There are 36 accredited asbestos training providers.
Projected cost of the regulation for affected individuals, businesses, or other entities	Since notifications and rosters will be required to be submitted electronically, training providers may incur the cost of computer electronic equipment which most firms doing business these days already possess.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

No alternatives have been identified to date.

The Board is concerned that those individuals managing firms that have had their license or approval revoked or who are otherwise found unfit for licensure will induce others to obtain licensure or approval and allow the revoked individuals to operate the firm. The Board can find no authority in its existing regulations to address this concern and, therefore, is proposing this regulatory action for public comment.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No public comment was received.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

No impact on the institution of the family or family stability has been identified.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 15-30-30	Repealed	Licensure required.	Redundant to statute.
18 VAC 15-30-40	Repealed	Accreditation required.	Redundant to statute.
18 VAC 15-30-50 (A)	18 VAC 15-30-51	Shall use form provided by the department.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (B)	18 VAC 15-30-52 (C)	18 years of age.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (C)	18 VAC 15-30-51	Completed application with appropriate fees.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (D)	18 VAC 15-30-52 (I)	Convictions.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (E)	18 VAC 15-30-52 (D)	Physical address.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (F)	18 VAC 15-30-51	Receipt of application and fees is not approval.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (G)	18 VAC 15-30-52 (F)	Training verification.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (H)	18 VAC 15-30-52.G	Education verification.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (I)	18 VAC 15-30-52 (H)	Experience verification.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-50 (J)	Repealed	Shall have all necessary occupational and professional licenses.	Redundant with former 18 VAC 15-30-250.B.4, now 18 VAC 15-30-53 (E.1.b(4))
18 VAC 15-30-100	18 VAC 15-30-164	Expiration.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-110	18 VAC 15-30-166 (A)	Refresher training for individual renewal.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-120	18 VAC 15-30-166 (B)	Contractor renewal.	Reorganized to present the regulations in an easier to

			understand format.
18 VAC 15-30-130	18 VAC 15-30-166 (C)	Training program renewal.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-140 (A, B, C, and D)	18 VAC 15-30-165	Renewal application procedures.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-140 (E and F)	18 VAC 15-30-167	Late renewal procedures.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-150	18 VAC 15-30-810 (A.12)	Change of address or name.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-160 (A, C, E, and F)	18 VAC 15-30-162	Application fees.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-160 (A, B, C, D, G, and H)	18 VAC 15-30-163	Renewal and late fees.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-160 (I)	18 VAC 15-30-161 (B)	Fees for nonprofit training programs.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-160 (J)	18 VAC 15-30-161 (C)	Examination fees.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-160 (K)	Repealed	Dishonored check fee.	Redundant with statute.
18 VAC 15-30-170	18 VAC 15-30-52 (E.1)	Worker entry requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-180	18 VAC 15-30-52 (E.2)	Project Designer entry requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-205	18 VAC 15-30-52 (E.3)	Supervisor entry requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-225	18 VAC 15-30-52 (E.4)	Inspector entry requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-245	18 VAC 15-30-52 (E.5)	Risk Assessor entry requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-250	18 VAC 15-30-53 (E.1)	Contractor entry requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-260	18 VAC 15-30-54 (B through F)	Training program general requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-270	18 VAC 15-30-54 (G through J)	Training program application review and audit.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-280	18 VAC 15-30-54 (K)	Accreditation approval.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-290	18 VAC 15-30-332	Changes to	Reorganized to present the

		approved course.	regulations in an easier to understand format.
18 VAC 15-30-300	18 VAC 15-30-334	Training program change of ownership.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-330	18 VAC 15-30-54 (A)	Training program general requirements.	Reorganized to present the regulations in an easier to understand format.
18 VAC 15-30-420	Same	Recordkeeping and provision of records to the Board for lead training programs.	<p>In Subdivision J.4, "date of birth" has been replaced with "social security number." SSN has served as a more reliable and effective form of identification in the verification of an applicant's training and is a data element required from every applicant under § 54.1-116 of the Code of Virginia. Additionally, since many training providers conduct and are approved for both Lead and Asbestos training programs, it would be beneficial to conform the Lead requirement to the Asbestos requirement for the course participant SSN.</p> <p>Subsection K has been revised to require training providers to submit all notices and rosters electronically on forms provided by the board to speed up the training verification process for applicants.</p> <p>In Subsection M, "will" has been replaced with the imperative form "shall."</p>
18 VAC 15-30-510	Same	General requirements for conducting lead-based paint activities.	Inserted "of this section" following "subsection C" in subsection D for clarification.
18 VAC 15-30-810 (A)	Same	Sets grounds for disciplinary action.	Rephrased to add "to" before "suspend," "revoke," and "deny" to enhance language clarity.
18 VAC 15-30-810 (A.3)	Same	Prohibits altering or falsifying licenses and training certificates.	Rephrased for clarity
N/A	18 VAC 15-30-810 (A.13)	Silent	Added ostensible ownership language: "Acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or

			indirectly, the operations of the licensee’s business.”
N/A	18 VAC 15-30-810 (C)	Silent	Duplicated language from 18 VAC 15-30-820.B regarding disciplinary procedures as referenced in the APA.
N/A	18 VAC 15-30-820 (A.8)	Silent	Added ostensible ownership language: “Acted as an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the accredited lead training provider’s business.”

The amendments reorganize the regulations to make them more consistent with other DPOR board regulations and to benefit from the experiences of all of our regulatory boards. All DPOR boards are going through this sort of regulation reorganization. The reorganization presents the regulatory requirements in a different and easier to understand format.